

REMARKS

Claims 23-38 were added by a Preliminary Amendment filed with the Request for Continued Examination of the present application. Claims 1-22 were cancelled by the Preliminary Amendment. By this Response, Applicants are amending claims 23, 24, cancelling claims 28-33, and adding claims 39-43. Applicants respectfully submit no new matter is added by these amendments. Applicants further submit the rejections of claims 28-33 are moot in view of the cancellation of these claims. Accordingly, claims 23-27, 34-43 are at issue.

The Office Action of June 25, 2004 purports to be in response to the communication filed on January 12, 2004 (see Office Action Summary page, and Detailed Action, p. 2). However, the Applicants respectfully note the Office Action is in fact, in response to the RCE and Preliminary Amendment filed on April 20, 2004. In this regard, the Office Action directly discusses claims 23-38 which were added in the Preliminary Amendment.

By this Amendment, Applicants are amending the specification at page 6 to correct an inconsistency between the written description and Figure 1. As originally filed, the Application states at lines 23-24 of page 6 with respect to the prior art embodiment of Figure 1, "The serial link 17 connection between the CPU modules 26 can be either low-speed or high-speed." However, as clearly shown in Figure 1, the serial link 17 connects the hot standby modules 20 of each controller 12, which in turn, are connected to the respective CPU modules 26 over the backplanes of the controllers 12. This is more clearly described on page 7 of the Application at lines 8-14 which provide:

Communication between the two controllers requires that data be sent from the primary CPU module 26 to the primary hot standby module 20 via the backplane of the controller 12, typically including an ASIC interface. The data is further transmitted to the hot standby module 20 of the secondary controller via a 10 Mb/s fiber optic link 17. The data is then transmitted through the backplane of the second controller and another ASIC interface of the standby controller to the CPU module 26 of the secondary controller.

Accordingly, Applicants have amended the sentence on page 6 to provide: "The serial link 17 connection between the hot standby modules 20 can be either low-speed or high-speed." Applicants respectfully submit this amendment is fully supported by the written specification and Figure 1 (as set forth above) and does not add new matter to the Application.

The Examiner has rejected claims 23-26 and 34-37 under 35 U.S.C. §102(a) as being anticipated by Applicants' admitted prior art ("AAPA"). Applicants respectfully traverse this rejection.

Claim 23, as amended herein, is directed to a control system having a first controller having a first module and a second module connected by a backplane, and a second controller having a third module and a fourth module connected by a backplane. The second controller is designed to take over control of the system in response to an error (such as a failure) in the first controller. As provided in the claim, communication between the first controller and the second controller is over "a fiber optic cable connecting the first module of the first controller and the third module of the second controller." Moreover, as part of the transfer of control from the first controller to the second controller, claim 23 requires, "the first controller is programmed to transfer the first network identifier to the second controller via the fiber optic cable and not via either one of the first backplane and second backplane." (Emphasis added).

Claim 34 is also directed to control system having a first controller and a second controller. Similar to claim 23, claim 34 also requires that transfer of the first network identifier is ". . .not via either one of the first backplane and the second backplane."

As discussed in the Application, the prior systems (i.e., the AAPA) first transmitted data from a CPU module in the first controller, over a backplane to a hot standby module in the first controller. The data was then transmitted over a fiber optic cable to the hot standby module of the second controller where it was then transmitted over the backplane of the second controller to the CPU module of the second controller. (See e.g., Application, p. 7, lines 7-14, also quoted above). Unlike the prior systems described in the Application, the "network identifier" of the system of claim 23 is not first transferred between the first and second modules of the first controller, and then transferred between the third and fourth modules of the second controller, along the respective backplanes of each controller. Instead, the transfer is only between the first module and the third module. Similarly, the transfer of the identifier in claim 34 is not between modules over a backplane of the respective controllers.

Applicants respectfully submit the Examiner has misread claims 23 and 34 in rejecting them over the AAPA. Specifically, as set forth in paragraph 13 of the Office Action of June 25, 2004:

As for claims 23 and 34, AAPA discloses a control system comprising:

.....

wherein the first controller is programmed to transfer the first network identifier to the second controller via either one of the first backplane and the second backplane, the transfer being in response to detecting an error associated with the first controller (pg. 7, first paragraph, "Existing control . . . the secondary controller.").

This is not what is being claimed. Instead, as required by claims 23 and 34, the transfer of the identifier is "**not** via either one of the first backplane and the second backplane." (Emphasis added). The requirement in the prior systems to first transfer the identifier from the CPU module to the hot standby module over the backplane of the first controller, and then transfer the identifier received by the hot standby module of the second controller (over the fiber optic cable) to the CPU module over the backplane of the second controller, significantly slowed the transfer between the controllers. The systems of claims 23 and 34 improve the data transfer rates by not requiring any transfer over the respective backplanes.

Accordingly, Applicants respectfully submit that claims 23 and 34 are not anticipated by the AAPA because the AAPA does not disclose each of the limitations of these claims, and that these claims are patentable over the AAPA. See *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984) (Anticipation is established only when a single prior art reference discloses each and every element of a claimed invention.).

Claims 24-26 depend on claim 23 and include each of its limitations, and claims 35-37 depend on claim 34 and include each of its limitations. Accordingly, Applicants respectfully submit claims 24-26 and 35-37 are also not anticipated by and are patentable over the AAPA.

Additionally, claim 24, as amended herein, further specifies the first module comprises "a processor." Thus, data is transferred directly from the module having the processor in the first controller to the second controller. In contrast, the AAPA as set forth in the present Application, requires data from the CPU module to first be transferred over the backplane of the first controller to the hot standby module of the first controller before being transferred over the fiber optic cable to the second controller.

The Examiner has rejected claims 27 and 38 under 35 U.S.C. §103(a) as being unpatentable over AAPA in view of Yamamoto. Applicants respectfully traverse this rejection.

As set forth above, Applicants respectfully submit claims 23 and 34 are patentable over the AAPA. Yamamoto is cited only to show that the “network identifier” can be an Internet Protocol Address, and does not effect the patentability of claims 23 and 34.

Claim 27 depends on claim 23 and includes each of its limitations, and claim 38 depends on claim 34 and includes each of its limitations. Accordingly, Applicants respectfully submit claims 27 and 38 are patentable over AAPA in view of Yamamoto.

Applicants respectfully submit new claims 39-43 are also patentable over the prior art.

Conclusion

In light of the foregoing amendments and remarks, Applicants respectfully submit claims 23-27 and 34-43 are in condition for allowance. Accordingly, Applicants respectfully request reconsideration and allowance of claim 23-27 and 34-38, and consideration and allowance of claims 39-43.

The Commissioner is authorized to debit or credit our Deposit Account No. 23-0280 for any payment **deficiencies or overpayments** associated with this matter.

Respectfully submitted,

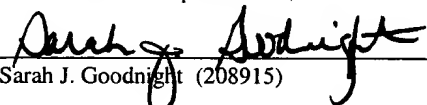
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on September 21, 2004.


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